

REMARKS

The application comprises claims 1-89 and 100-173. Claims 1, 73, 83, 100 and 172 are independent claims. Claims 83, 100 and 172 are currently amended for cosmetic reasons. The response refers primarily to the independent claims. The patentability of the dependent claims follow at least for the reason of being dependent on an independent claim that is patentable.

In the office action, the Examiner states that claims 1-72 and 100-171 are rejected under 35 U.S.C. §112, first paragraph, for failing to comply with the enablement requirement.

Applicants respectfully disagree. On pages 17-23 of the application (WO 00/44321) there is described a method of spacer expansion illustrated in Figs. 7A-7F. The method utilizes applying force to a spacer 402 causing it to expand where it is not restrained by outer collar 404. Figs. 8-11 illustrate a number of embodiments comprising systems 500, 600, 700 and 800 to apply the force and synchronize between motion of the restrain element and the force applicator as referenced by the claims.

As an example in Fig. 8C there is illustrated a force applicator (spacer pushing rod 542 (page 20)) to apply deforming force to the implant (spacer 402 (Fig. 7A)). Collar 404 serves as a restrain element. Device 500 comprises gears and knobs (e.g. 512, 516, 518, 544) which are fit together to synchronize the motion of collar 404 and force applicator 542 in controlling implant 402 to achieve a desired deformation of the implant.

Applicants respectfully suggest conducting a telephone interview to resolve any misunderstandings regarding enablement.

In the office action, the Examiner states that claims 73-89 and 172-173 are rejected under 35 U.S.C. §102(b) as being anticipated by Okada et al. (U.S. Patent No. 5,059,199).

Applicants respectfully disagree. The Examiner has not shown a *prima facie* case of anticipation since Okada lacks limitations of the claims (MPEP §2143.03). Claim 73 requires "applying a deformation force to said implant using at least one tube". In contrast in Okada no deformation force is applied.


Regarding claims 83 and 172, there is required "a plurality of spikes extending radially thereto, said spikes arranged along the tube (claim 172) /implant's (claim 83) axis". In contrast in Okada, if the points of the operation wire can be considered a plurality of spikes (which applicants disagree with), the spikes are not arranged along the axis.

The patentability of the dependent claims follow at least for the reason of being dependent on an independent claim that is patentable.

Claims 83 has been amended to fix a typographical error ("comprising" instead of "composing"). Claim 100 has been amended to delete "and" in line 4 of said claim and add a period in the end of said claim. Claim 172 has been amended to correct for the use of the word "implant" instead of "tube" in claim 172. These errors were clearly an oversight in preparing the claims.

Applicants submit that the present application is now ready for allowance. If the Examiner does not agree, the Examiner is respectfully requested to call the undersigned at toll free 1 (877) 428-5468. This number connects directly to the undersigned's office in Israel. Note that Israel is 7 hours ahead of Washington, and that the normal work week is Sunday through Thursday. The undersigned can usually be reached until 11:30 AM Washington time at the above number.

Respectfully submitted,
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